

Introduced by Senator Hughes

February 20, 1998

An act to amend Sections 68543.5, 72190, 75033.5, 75075, 75076, 75077, 75520, and 75522 of the Government Code, relating to judges.

LEGISLATIVE COUNSEL'S DIGEST

SB 2163, as introduced, Hughes. Judges: compensation and retirement.

(1) Existing law specifies separate methods for the compensation of a retired judge assigned to serve on a trial court and a retired judge assigned to serve on a court of appeal or the Supreme Court.

This bill would delete the separate provisions for the compensation of a retired judge assigned to serve on a court of appeal or the Supreme Court and expand the provisions for the compensation of a retired judge assigned to serve on a trial court to apply to all courts of record. It also would revise the provisions governing the compensation of retired commissioners sitting on assignment.

(2) The Judges' Retirement Law and the Judges' Retirement System II Law provide for the reduction of the retirement allowance of a judge who does not retire subsequent to the term of office in which he or she attains age 70.

This bill would delete those reductions.

Existing law authorizes a judge with at least 5 years of service and prior to the end of the term of office during which

he or she attains age 70 to retire and receive a specified allowance.

This bill would delete the requirement respecting retirement prior to the end of the term of office during which the judge attains age 70.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 68543.5 of the Government
2 Code is amended to read:

3 68543.5. ~~(a)~~—Whenever a judge retired as such under
4 the Judges' Retirement Law or the Judges' Retirement
5 System II is assigned to serve in a ~~trial~~ court *of record*, the
6 state shall pay the judge for each day of service in the
7 court in the amount specified in Section 68543.7, without
8 loss or interruption of retirement benefits, unless the
9 judge waives compensation under this section. Whenever
10 a retired judge of a justice court who is not under the
11 Judges' Retirement Law or the Judges' Retirement
12 System II is assigned to serve in a ~~trial~~ court *of record*, the
13 state shall pay the judge for each day of service in the
14 court in the amount specified in Section 68543.7, or the
15 compensation specified in Section 68541, whichever is
16 greater. The compensation shall be paid by the Judicial
17 Council out of any appropriation for extra compensation
18 of judges assigned by the Chairperson of the Judicial
19 Council.

20 If a judge retired as such under the Judges' Retirement
21 Law *or the Judges' Retirement System II* is assigned to
22 serve in a ~~trial~~ court *of record*, the 8-percent difference
23 between the compensation of the retired judge while so
24 assigned and the compensation of a judge of the court to
25 which assigned shall be paid to the Judges' Retirement
26 Fund *or the Judges' Retirement System II Fund*.

27 During the period of assignment, a retired judge shall
28 be allowed expenses for travel, board, and lodging
29 incurred in the discharge of the assignment. When
30 assigned to sit in the county in which he or she resides, the

1 judge shall be allowed expenses for travel, and board
2 incurred in the discharge of the assignment. The
3 expenses for travel, board, and lodging shall be paid by
4 the state under the rules adopted by the Board of Control
5 which are applicable to officers of the state provided for
6 in Article VI of the Constitution while traveling on official
7 state business.

8 Notwithstanding the above provisions pertaining to
9 compensation, a retired judge on senior judge status shall
10 receive compensation from the state as provided in
11 Sections 75028 and 75028.2, and shall be allowed expenses
12 for travel, board, and lodging incurred in the discharge of
13 the assignment as provided in this section.

14 ~~(b) Whenever a judge retired as such under the~~
15 ~~Judges' Retirement Law or the Judges' Retirement~~
16 ~~System II is assigned to sit in a court of appeal or the~~
17 ~~Supreme Court, he or she shall be compensated while so~~
18 ~~sitting at a rate equal to 92 percent of the full~~
19 ~~compensation of a judge of the court to which he or she~~
20 ~~is assigned unless the judge waives compensation under~~
21 ~~this section. A retired judge of a justice court who is not~~
22 ~~under the Judges' Retirement Law or the Judges'~~
23 ~~Retirement System II and who is assigned to sit in a court~~
24 ~~of appeal or the Supreme Court shall be compensated~~
25 ~~while so sitting at the full compensation of a judge of the~~
26 ~~court to which he or she is assigned, or the compensation~~
27 ~~specified in Section 68541, whichever is greater. The~~
28 ~~compensation shall be chargeable for the period specified~~
29 ~~in Section 68547 the same as provided by law with respect~~
30 ~~to the compensation of a judge of the court to which he~~
31 ~~or she is assigned and the compensation is payable out of~~
32 ~~any appropriation for extra compensation of judges~~
33 ~~assigned by the Chairperson of the Judicial Council.~~

34 ~~If the compensation is greater than the judge's~~
35 ~~retirement allowance, the state shall pay the judge the~~
36 ~~difference between the compensation and the~~
37 ~~retirement allowance. The state shall reimburse the~~
38 ~~Judges' Retirement Fund or the Judges' Retirement~~
39 ~~System II for the retirement allowance paid to the judge~~
40 ~~while sitting on assignment, except that if no allowance~~

~~has been paid because the judge has taken deferred retirement, no reimbursement shall be paid to the Judges' Retirement System or the Judges' Retirement System II.~~

~~If the compensation would be less than his or her retirement allowance, the retirement allowance shall continue to be paid in lieu of the compensation. The state shall reimburse the Judges' Retirement Fund or the Judges' Retirement System II Fund in the amount of the compensation which would otherwise have been paid to the judge while sitting on assignment.~~

~~If a judge retired under the Judges' Retirement Law or the Judges' Retirement System II is assigned to sit in a court of appeal or the Supreme Court, the 8 percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund.~~

~~During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the State Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.~~

~~Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.~~

~~SEC. 2. Section 72190 of the Government Code is amended to read:~~

~~72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts or justice courts shall exercise all the powers and~~

1 perform all of the duties authorized by law to be
 2 performed by commissioners of superior courts and ~~such~~
 3 ~~the~~ additional powers and duties as may be prescribed by
 4 law. At the direction of the judges, commissioners may
 5 have the same jurisdiction and exercise the same powers
 6 and duties as the judges of the court with respect to any
 7 infraction or small claims action. The commissioners of
 8 municipal courts ~~or justice courts~~ shall possess the same
 9 qualifications the law requires of a judge and shall hold
 10 office during the pleasure of the court appointing them
 11 and shall not engage in the private practice of law. ~~They~~
 12 ~~shall be ex officio deputy clerks.~~

13 Notwithstanding any other provision of law, a
 14 commissioner of a *superior or* municipal court ~~or a justice~~
 15 ~~court~~ of any judicial district in this state who has been duly
 16 appointed and has thereafter been retired ~~for~~ *from*
 17 service, ~~or a commissioner of a superior court in this state~~
 18 ~~who has been duly appointed and has thereafter been~~
 19 ~~retired from service,~~ may be assigned by the presiding
 20 judge or sole judge of ~~a municipal court or a justice court~~
 21 *any court in this state* to serve as a court commissioner of
 22 the ~~court courts~~ for any periods of time as he or she is
 23 needed for the prompt and efficient discharge of the
 24 business of that court. While serving, he or she shall ~~be~~
 25 ~~paid the full compensation of a court commissioner,~~
 26 ~~payable as follows: he or she shall~~ continue to receive his
 27 or her *full* retirement allowance, ~~and in addition the~~
 28 ~~county shall pay him or her the amount equal to the~~
 29 ~~difference between the retirement allowance and full~~
 30 ~~compensation plus a per diem rate of 92 percent of~~
 31 ~~1/250th of the salary of a sitting court commissioner of~~
 32 ~~that court unless the commissioner waives compensation~~
 33 ~~under this section.~~ That employment shall not operate to
 34 reinstate him or her as a member of ~~the county any~~
 35 retirement system or to terminate or suspend his or her
 36 retirement rights or allowance, and no deductions shall
 37 be made from his or her compensation as contributions to
 38 the retirement system.

39 SEC. 3. Section 75033.5 of the Government Code is
 40 amended to read:

1 75033.5. Notwithstanding any other provision of this
2 chapter, any judge with at least five years of service, ~~and~~
3 ~~prior to the end of the term of office during which he or~~
4 ~~she attains age 70~~ may retire, and upon his or her
5 application therefor to the Judges' Retirement System
6 after reaching the age which would have permitted him
7 or her to retire for age and length of service under Section
8 75025 had he or she remained continuously in service as
9 a judge up to that age, receive a retirement allowance
10 based upon the judicial service as a judge of a court of
11 record, with which he or she is credited, in the same
12 manner as other judges, except as otherwise provided by
13 this section the retirement allowance is an annual amount
14 equal to 3.75 percent of the compensation payable, at the
15 time payments of the allowance fall due, to the judge
16 holding the office which the retired judge last held prior
17 to his or her discontinuance of his or her service as judge,
18 multiplied by the number of years and fractions of years
19 of service with which the retired judge is entitled to be
20 credited at the time of his or her retirement, not to exceed
21 20 years.

22 A judge of a justice court who renders part-time service
23 after January 1, 1990, shall receive a reduced retirement
24 allowance based upon actual service rendered.

25 If a judge has served more than five years but less than
26 12 years, the above percentage of compensation payable
27 shall be reduced 0.25 percent for each year that the
28 service of the judge is less than 12 years. For the purposes
29 of calculating the percentage of compensation payable,
30 part-time service shall be the equivalent of full-time
31 service.

32 No judge shall be eligible to receive an allowance
33 pursuant to this section until the attainment of at least age
34 63 unless the judge is credited with 20 years of judicial
35 service and has attained age 60.

36 The surviving spouse of any judge who has so elected
37 to retire under this section shall receive for life an
38 allowance equal to one-half of the retirement allowance
39 that would be payable to the judge were he or she living
40 and receiving the benefits accorded by this section,

1 commencing with the day following the date of the death,
2 if the judge dies after commencement of receipt of
3 benefits, or the date the judge would have been able to
4 commence receipt of benefits but for his or her death, if
5 his or her death occurs prior to commencement of receipt
6 of benefits.

7 An election to retire under this section shall be made
8 in writing and filed with the Judges' Retirement System,
9 and shall be without right of revocation, and upon that
10 filing the judge shall be deemed retired with receipt of
11 benefits deferred until herein provided, and the judicial
12 office from which he or she has retired shall become
13 vacant. The notice and election of retirement shall be
14 sufficient if it states in substance that the judge elects to
15 retire under the benefits of this section.

16 A judge who leaves his or her office to accept any
17 lucrative office under the United States within the
18 purview of Section 7 of Article VII of the Constitution
19 shall have any benefits receivable hereunder reduced by
20 the amount of any salary or retirement benefits he or she
21 receives by virtue of his or her service in that office.

22 SEC. 4. Section 75075 of the Government Code is
23 amended to read:

24 75075. Any judge hereafter retiring pursuant to
25 Section 75025 or 75060 may elect to receive the benefits
26 accorded by this article if he or she retires for service or
27 disability ~~prior to the end of the term of office during~~
28 ~~which he or she attains the age of 70 years.~~

29 Every judge who qualifies under this section shall be
30 deemed to elect to receive the benefits accorded by this
31 article, unless he or she makes an election to the contrary
32 by filing written notice thereof with the Judges'
33 Retirement System at or prior to retirement.

34 Any judge whose service would qualify him or her for
35 any benefits under this article if the total of the service
36 included an additional 60 days, shall be deemed to have
37 credited to him or her, sufficient service to qualify for the
38 benefit.

39 SEC. 5. Section 75076 of the Government Code is
40 amended to read:

1 75076. (a) A judge who qualifies, as prescribed in
2 Section 75075, to receive the benefits accorded by this
3 article shall receive a retirement allowance equal to 65
4 percent of the salary payable, at the time payment of the
5 allowance falls due, to the judge holding the judicial office
6 to which he or she was last elected or appointed; except
7 that if upon retirement a judge has received credit for 20
8 or more years of service rendered prior to the expiration
9 of the time within which the judge is eligible to elect to
10 receive the benefits accorded by this article and for which
11 he or she has contributed to the Judges' Retirement Fund
12 his or her retirement allowance shall equal 75 percent of
13 that salary ~~or if he or she retires pursuant to Section 75060~~
14 ~~after or while serving in a term of office subsequent to the~~
15 ~~term of office in which he or she attained the age of 70,~~
16 ~~his or her retirement allowance shall equal 50 percent~~
17 ~~unless he or she elects an actuarially reduced allowance~~
18 ~~based on his or her life and that of his or her spouse as~~
19 ~~provided under Section 75070.~~

20 (b) Any judge retiring after July 7, 1960, who has or
21 shall become entitled to credit for service as a judge of a
22 court of record prior to the inclusion of the judges of those
23 courts, or of all of those courts, under the Judges'
24 Retirement Law, or as a "judge of an excluded court" as
25 defined by Section 75029, or as a "constitutional officer"
26 or "public legal officer" as defined by Section 75030.5,
27 without having contributed therefor to the Judges'
28 Retirement Fund, may at any time prior to retirement
29 contribute for all or any part of that service by paying into
30 the fund a sum of money computed by applying to the
31 rate of salary which he or she actually received during his
32 or her first year of service as a judge the rate of deduction
33 first applicable to his or her salary as a judge after the
34 inclusion of the judges of his or her court under the
35 Judges' Retirement Law, multiplied by the period of
36 service for which contributions are elected to be made,
37 plus interest at 3 percent a year to the date of his or her
38 payment upon the amounts of the deductions and from
39 the respective dates they would have been made if he or
40 she had been the holder of a judicial office subject to the

1 provisions of the Judges' Retirement Law at the time of
2 the rendition of the services for which he or she has
3 received or hereafter receives that credit.

4 The amount of any contribution authorized by this
5 subdivision and interest thereon shall be determined by
6 the Judges' Retirement System in accordance with this
7 subdivision.

8 (c) If the judge retires pursuant to Section 75025, the
9 allowance is payable during the remainder of his or her
10 life; if pursuant to Section 75060, it is payable as provided
11 in Section 75060.6.

12 SEC. 6. Section 75077 of the Government Code is
13 amended to read:

14 75077. The surviving spouse of a judge who qualifies,
15 as prescribed in Section 75075, to receive the benefits
16 accorded by this article and who dies during retirement
17 shall receive, until death or remarriage, an allowance
18 equal to one-half of the retirement allowance that would
19 be payable to the judge were he living and receiving the
20 benefits accorded by this article. ~~In such a case no~~
21 ~~payment shall be made pursuant to Section 75104.5.~~

22 SEC. 7. Section 75520 of the Government Code is
23 amended to read:

24 75520. (a) A judge shall, monthly, accrue monetary
25 credits equal to 18 percent of the judge's monthly salary.

26 (b) To the total monetary credits in each judge's
27 account, an additional amount shall be credited monthly
28 at a rate equal to the annual net earnings rate achieved
29 by the Judges' Retirement System II Fund on its
30 investments of moneys in the Judges' Retirement System
31 II Fund during the preceding fiscal year.

32 ~~(c) Notwithstanding subdivisions (a) and (b), no~~
33 ~~monetary credit under subdivision (a) shall be accrued~~
34 ~~for service during a term of office that commences after~~
35 ~~the judge has attained 70 years of age.~~

36 SEC. 8. Section 75522 of the Government Code is
37 amended to read:

38 75522. (a) A judge is eligible to retire pursuant to this
39 section upon attaining both 65 years of age and 20 or more

1 years of service, or upon attaining 70 years of age with a
2 minimum of five years of service.

3 (b) The office of a judge who retires under this section
4 becomes vacant on the date of the retirement.

5 (c) A judge who retires pursuant to this section shall,
6 within 30 days after the effective date of the retirement,
7 elect to receive either the benefits provided by
8 subdivision (d) or the benefits provided by subdivision
9 (e). Under rules adopted by the board, the time for the
10 election may be extended in cases of illness or other
11 hardship, but once made, the election shall be final and
12 irrevocable.

13 (d) The judge may elect to receive for life a monthly
14 retirement allowance equal to the benefit factor
15 multiplied by the judge's final compensation multiplied
16 by the number of years of service credit.

17 (1) The benefit factor for a judge eligible to retire
18 pursuant to this section equals 3.75 percent per year of
19 service.

20 ~~(2) The retirement allowance of a judge who does not~~
21 ~~retire prior to the commencement of the term of office~~
22 ~~after the term during which he or she attains 70 years of~~
23 ~~age shall not exceed 50 percent of the judge's final~~
24 ~~compensation. This paragraph shall be made applicable~~
25 ~~only to the extent that it is not in violation of federal law.~~

26 ~~(3)~~

27 (2) In no event shall the retirement allowance at the
28 time of retirement exceed 75 percent of the judge's final
29 compensation.

30 (e) The judge may elect to receive the amount of his
31 or her monetary credits determined pursuant to Section
32 75520, including the credits added under subdivision (b)
33 of that section computed to the last day of the month
34 preceding the date of distribution. Under rules adopted
35 by the board, the judge may elect to receive that amount
36 in a single payment, or may direct that it be paid in an
37 annuity of actuarially equivalent value for the judge's life
38 or in one of the optional forms provided for in Section
39 75571.

1 (f) If a retired judge fails or refuses to make an election
2 pursuant to subdivision (c) within the time allowed, he
3 or she shall be deemed to have elected to receive a
4 monthly retirement allowance under subdivision (d).

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